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CLERK OF DISTRICT COURT
SOUTHERN DISTRICT OF IOWA

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA,)	CRIMINAL NO. 4:09-CR-076
)	
Plaintiff,)	<u>INDICTMENT</u>
)	
v.)	T. 26 U.S.C. § 7201
)	T. 26 U.S.C. § 7203
RICHARD LOWELL ROSENQUIST,)	T. 26 U.S.C. § 7206(1)
)	
Defendant.)	

THE GRAND JURY CHARGES:

Introductory Allegations

1. Defendant RICHARD LOWELL ROSENQUIST is a resident of Dallas County, Iowa, within the Southern District of Iowa. Defendant previously was a resident of Madison Lake, Minnesota.
2. On or about April 15, 1996, and April 15, 1997, while a resident of Minnesota, the defendant timely filed joint individual income tax returns for the calendar years 1995 and 1996. The Internal Revenue Service conducted an audit of these returns and assessed additional tax and penalties on or about October 20, 1998.
3. During the calendar years 1997, 1998, and 1999, defendant had and received substantial gross income but failed to file an individual income tax return for any of these years at the time required by law. The Internal Revenue Service determined defendant's tax liabilities for each of these years based on available information and provided the defendant with a Notice of Deficiency, setting forth the tax, penalties, and assessments as determined by the Internal Revenue Service. The Notice of Deficiency was mailed to defendant, by certified mail,

at defendant's residence in Linden, Iowa, on or about August 16, 2001.

4. Defendant sought review of the assessments for the calendar years 1995-1999 in the United States Tax Court. The proceedings in the United States Tax Court concluded on or about July 28, 1998, with respect to the calendar years 1995 and 1996; and on or about June 1, 2004, with respect to the calendar years 1997, 1998, and 1999.

5. Defendant failed to pay said assessments for the calendar years 1995-1999.

6. On or about September 24, 2003, the Internal Revenue Service filed a Notice of Federal Tax Lien against defendant and defendant's spouse, indicating an unpaid balance of assessment in the amount of \$26,787.53 for the calendar year 1995; and an unpaid balance of assessment in the amount of \$15,744.85 for the calendar year 1996. The Internal Revenue Service also filed a separate Notice of Federal Tax Lien against the defendant for the calendar years 1997-1999, indicating unpaid balance of assessments in the amounts of \$27,788.14 (1997), \$20,977.50 (1998), and \$18,982.96 (1999).

7. Beginning in or about September 2003, the Internal Revenue Service attempted to collect said assessments, including through levies and other lawful processes available to the Internal Revenue Service.

8. On or about April 13, 2007, the Internal Revenue Service received judicial authorization from the United States District Court for the Southern District of Iowa for the sale of defendant's residence located on Beaumont, Avenue, in Linden, Iowa.

9. On or about May 1, 2007, the defendant mailed to the Internal Revenue Service documents purporting to be amended individual income tax returns for the calendar years 1995-1999.

10. On or about February 25, 2008, the defendant submitted an Offer in

Compromise to the Internal Revenue Service, claiming that he had no funds available and offering to settle his tax liabilities for the years 1995-2004 for the amount of \$150.

11. Beginning with the calendar year 2000, the defendant did not file any individual income tax returns at the time required by law.

12. These Introductory Allegations are incorporated into Counts 1-6 of this Indictment, alleged below, as if set forth fully therein.

THE GRAND JURY FURTHER CHARGES:

**Count 1
(Evasion of Payment: 1995-1999)**

Beginning in or about September 2003, and continuing until the date of this Indictment, in the Southern District of Iowa and elsewhere, the defendant, RICHARD LOWELL ROSENQUIST, a resident of Dallas County, Iowa, did willfully attempt to evade and defeat the payment of a large part of the income tax due and owing by him to the United States of America for the calendar years 1995-1999 by the following affirmative acts, among others:

- (A) the concealment and attempted concealment from the Internal Revenue Service of the nature, extent, and location of defendant's assets;
- (B) the placement of funds and property in the names of nominees and third parties, and otherwise attempting to cloud title of real property, including for the purpose of attempting to place such funds and property beyond the reach of process;
- (C) the attempted interference with the lawful collection efforts of the Internal Revenue Service, including through attempts to interfere with levies and garnishments and through attempts to interfere with the auction of defendant's residence in Linden, Iowa, on or about June 14, 2007;
- (D) the filing of multiple petitions for bankruptcy in the United States Bankruptcy Court for the Southern District of Iowa, for the purpose of delaying collection activity by the Internal Revenue Service and the judicial proceedings seeking authorization to auction the residence on Beaumont Avenue; and

- (E) the submission to the Internal Revenue Service of various documents, such as documents purporting to be income tax returns, for the purpose of causing further delay and hindrance to its lawful collection efforts.

This is a violation of Title 26, United States Code, Section 7201.

THE GRAND JURY FURTHER CHARGES:

**Count 2
(False Income Tax Return: 2002)**

On or about February 4, 2008, in the Southern District of Iowa and elsewhere, the defendant, RICHARD LOWELL ROSENQUIST, who was a resident of Dallas County, Iowa, did willfully make and subscribe a U.S. Individual Income Tax Return (Form 1040) for the calendar year 2002, which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, and which the defendant did not believe to be true and correct as to every material matter, in that said return reported “wages, salaries, tips, etc.” on Line 7 in the amount of \$114,000, and “adjusted gross income” in the amount of \$114,000 on Line 35, when in fact, as defendant then and there well knew and believed, the true and correct amount of defendant’s “wages, salaries, tips, etc.” and “adjusted gross income” for the calendar year 2002 exceeded \$114,000.

This is a violation of Title 26, United States Code, Section 7206(1).

THE GRAND JURY FURTHER CHARGES:

**Count 3
(Failure to File: 2003)**

During the calendar year 2003, the defendant, RICHARD LOWELL ROSENQUIST, who was a resident of Dallas County, Iowa, within the Southern District of Iowa, had and received gross income in such an amount that defendant was required by law, following the close of the calendar years, and on or before April 15, 2004, to make an income tax

return to the person assigned to receive returns at the local office of the Internal Revenue Service at Des Moines, Iowa, in the Southern District of Iowa, or to the Director, Internal Revenue Service Center, at Kansas City, Missouri, or other proper officer of the United States, stating specifically the items of defendant's gross income (including W-2 wage income of approximately \$136,633.37 from Total Administrative Services Corporation) and any deductions and credits to which defendant was entitled; and that well-knowing and believing all of the foregoing, the defendant, RICHARD LOWELL ROSENQUIST, did willfully fail to make and file such income tax return to said person assigned to receive returns at the local office of the Internal Revenue Service, to said Director of the Internal Revenue Service Center, or to any other proper officer of the United States.

This is a violation of Title 26, United States Code, Section 7203.

THE GRAND JURY FURTHER CHARGES:

**Count 4
(First False Return: 2004)**

On or about March 18, 2005, in the Southern District of Iowa and elsewhere, the defendant, RICHARD LOWELL ROSENQUIST, who was a resident of Dallas County, Iowa, did willfully make and subscribe a U.S. Individual Income Tax Return (Form 1040) for the calendar year 2004, which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, and which the defendant did not believe to be true and correct as to every material matter, in that Line 63 of said return reported "Federal income tax withheld from Forms W-2 and 1099" in the amount of \$36,945, and in that defendant further claimed on Line 72a that he was due a refund; when in fact, as defendant then and there well knew and believed, defendant did not have "Federal income tax

withheld from Forms W-2 and 1099" in the amount of \$36,945 during the calendar year 2004 and was not due a refund.

This is a violation of Title 26, United States Code, Section 7206(1).

THE GRAND JURY FURTHER CHARGES:

**Count 5
(Second False Return: 2004)**

On or about February 6, 2006, in the Southern District of Iowa and elsewhere, the defendant, RICHARD LOWELL ROSENQUIST, who was a resident of Dallas County, Iowa, did willfully make and subscribe a U.S. Individual Income Tax Return (Form 1040) for the calendar year 2004, which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, and which the defendant did not believe to be true and correct as to every material matter, in that said return reported "wages, salaries, tips, etc." on Line 7 in the amount of "-0-" and "total income" on line 22 in the amount of "-0-", and in that defendant further claimed on line 72a that he was due a refund, when in fact, as defendant then and there well knew and believed, the true and correct amount of defendant's "wages, salaries, tips, etc." and "total income" for the calendar year 2004 exceeded "-0-" (including W-2 wage income from Total Administrative Services Corporation in the amount of approximately \$109,633.05), and in that defendant was not due a refund.

This is a violation of Title 26, United States Code, Section 7206(1).

THE GRAND JURY FURTHER CHARGES:

**Count 6
(False Return: 2005)**

On or about March 31, 2006, in the Southern District of Iowa and elsewhere, the defendant, RICHARD LOWELL ROSENQUIST, who was a resident of Dallas County, Iowa,

did willfully make and subscribe a U.S. Individual Income Tax Return (Form 1040) for the calendar year 2005, which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, and which the defendant did not believe to be true and correct as to every material matter, in that Line 65 reported "Federal income tax withheld from Forms W-2 and 1099" in the amount of \$9,937, and defendant further claimed on Line 73a that he was due a refund; when in fact, as defendant then and there well knew and believed, defendant did not have "Federal income tax withheld from Forms W-2 and 1099" in the amount of \$9,937 during the calendar year 2005 and was not due a refund.

This is a violation of Title 26, United States Code, Section 7206(1).

A TRUE BILL.

/s/
FOREPERSON

Matthew G. Whitaker
United States Attorney

By: /s/ Andrew H. Kahl
Andrew H. Kahl
Assistant United States Attorney